



MINUTES OF THE REGULAR MEETING
OF THE PLANNING COMMISSION
CITY COMMISSION CHAMBERS, CITY HALL
THURSDAY, JANUARY 16, 2014 4:30 P.M.

The Planning Commission of the City of Leesburg held its regular meeting Thursday, January 16, 2014, in the Commission Chambers at City Hall. Chairman James Argento called the meeting to order at 4:30 p.m. The following Commission members were present:

James Argento
Clell Coleman
Charles Townsend
Ted Bowersox
Donald Lukich
Agnes Berry
Frazier J. Marshall

City staff that was present included Bill Wiley, Community Development Director, Dan Miller, Senior Planner, and Dianne Pacewicz, Administrative Assistant II. City Attorney Fred Morrison was also present.

The meeting opened with an invocation given by Commissioner James Argento and the Pledge of Allegiance to the Flag.

The new City Manager, Al Minner, introduced himself to the Planning Commission.

Bill Wiley, Community Development Director, informed the audience of the rules of participation and the need to sign the speaker's registry. He also informed Commissioners and the audience of the City Commission meeting dates tentatively scheduled.

James Argento stated that because we're not treating these amendments as a quasi-judicial matter, we do not need to put anyone under oath.

MINUTES OF PLANNING & ZONING COMMISSION MEETING FOR NOVEMBER 21, 2013.

Commissioner Ted Bowersox moved to APPROVE the minutes from the NOVEMBER 21, 2013 meeting. Commissioner Charles Townsend SECONDED the motion, which was PASSED by a vote of 7 to 0.

NEW BUSINESS

1. PUBLIC HEARING CASE # AMDT-13-140 – AMENDING CHAPTERS 6 AND 25 – LAND DEVELOPMENT CODE

AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, DELETING CHAPTER 6 ANIMALS SUBSECTION 6-41 KEEPING CHICKENS OR FOWL AND AMENDING AND/OR SUPPLEMENTING CHAPTER 25 ZONING OF THE CODE OF ORDINANCES BY ADDING SECTION 25-288 COMMERCIAL USES (S) AGRICULTURAL (TEMPORARY) USES IN THE RE-1 RESIDENTIAL ESTATE ZONING DISTRICT, AMENDING SUBSECTION 25-290 TEMPORARY

USES BY REPLACING SUBSECTIONS (3) THROUGH (9) TO CLARIFY OTHER TEMPORARY USES, DELETING SUBSECTION 25-292 SUPPLEMENTAL DISTRICT REQUIREMENTS, (4) ANIMALS AND FOWL ETC. BECAUSE OF CONFLICTS WITH OTHER SECTIONS OF THE CODE AND ADDING A NEW REVISED SUBSECTION (4) THE KEEPING OF DOMESTIC ANIMALS AND FOWL TO ALLOW CHICKENS IN RESIDENTIAL DISTRICTS, REVISING SUBSECTION (21) INDOOR RECREATION INTERNET/SWEEPSTAKES REDEMPTION CAFÉS BY CHANGING THE TITLE TO ADULT GAMING CENTERS AND MAKING REVISIONS TO REQUIREMENTS FOR GAMING CENTERS, ADDING A NEW SUBSECTION 22 BY PERMITTING HELICOPTER LANDING SITES IN A PUD (PLANNED UNIT DEVELOPMENT) ZONING DISTRICT WITH CERTAIN ENUMERATED EXCEPTIONS; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE. **(CITY COMMISSION DATES - 1st READING ON FEBRUARY 10TH, 2014 AND A 2ND READING ON FEBRUARY 24TH, 2014)**

Bill Wiley entered the exhibits into record.

There were no substantive comments received from the departments. There was one public response received for approval and no responses received for disapproval.

Bill Wiley gave a brief background of this project. The applicant had come before Planning Commission in 2012, changing from a townhome project to an age-restricted mobile home development property.

The Planning & Zoning staff recommended the approval of the request for the following reasons:

Executive Summary:

- A. Amending Chapter 25 by adding Section 25-288 (S) to allow temporary agricultural uses in the RE-1 (Estate Density Residential) zoning district and allow vacant agricultural properties to have agricultural tax exemptions until platted.
- B. Amending Section 25-290 Temporary Uses to clarify permissible temporary event and outdoor sales promotions.
- C. Deleting Chapter 6 Section - 41 Keeping chickens or fowl, and amending Chapter 25 by revising Section 25-292 (4) The keeping of domestic animals and fowl to revise the requirements regarding domestic animals and fowl in residential zoning districts, and providing regulations for other domestic animals.
- D. Amending Chapter 25 by revising Section 25-292 (21) Indoor recreation to provide regulations for “Adult Gaming Centers” (previously Adult internet/sweepstakes redemption cafés) to require zoning approvals, background checks, limits on the number of electronic gaming devices, and providing for definitions.
- E. Amending Chapter 25 by adding Section 25-292 (22) Location of Helicopter Landing Areas to provide additional regulations for helicopter landing sites in PUD (Planned Unit Development) zoning districts with specific exceptions.

Action Requested: Vote to approve the referenced amendments to the Code of Ordinances Chapters 6 and 25 of the Code of Ordinances as proposed by staff and forward to the City Commission for consideration.

DISCUSSION

- A. **Amending Chapter 25 by adding Section 25-288 (S)** to allow temporary agricultural uses in the RE-1 (Estate Density Residential) zoning district and allow vacant agricultural properties to have agricultural tax exemptions until platted.

Bill Wiley explained that this item came up because a property owner in the very southern tip of Leesburg that was annexed back in 2005, that has an RE-1 zoning. The owner would like to continue with his agricultural uses, but would need to get agricultural exemption. The City doesn't allow for that currently in the code, so an amendment will be needed. It is a way for them to utilize the property better. This particular property owner has reviewed this amendment and he is in full support of it.

Bill Wiley explained following in the Ordinance.

Sec. 25-288. - Commercial uses.

(s) Agricultural (temporary) uses.

- (1) The following temporary agricultural uses maybe permitted in the RE-1 Residential Estate zoning district per the following restrictions:
 - a. Agricultural uses maybe permitted on a minimum of twenty (20) acres of non-platted property and per Section 25-292-Supplemental District Requirements (4) *The keeping of domestic animals and fowl* of the Code of Ordinances.
- (2) The production for sale of crops, livestock or livestock products, which shall include but not be limited to:
 - a. Field crops, such as corn and hay;
 - b. Fruits, such as citrus, apples, peaches, grapes, tomatoes, grapes and berries;
 - c. Vegetables, such as beans, cabbage, carrots, beets and onions;
 - d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers;
 - e. Livestock and livestock products, including cattle, sheep, goats, horses, poultry, ratites birds such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, and eggs;
 - f. Aquaculture products, including fish, fish products, and water plants;
 - g. Woody biomass, which means short-rotation woody crops raised for bioenergy, and shall include farm woodland.
- (3) Roadside stands that are used to show and sell products all of which are raised or produced on the land on which they are located.
- (4) No "Animal Feeding Operation (AFO)" feedlots or facilities such as swine, poultry or cattle feedlots shall be permitted as defined below:
 - a. Where animals are confined for at least 45 days in a 12-month period, and
 - b. Where there is no grass or other vegetation in the confinement area during the normal growing season
 - c. Where crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.
- (5) The Community Development Director shall determine if other similar uses shall be permitted based on whether they meet the intent of this section.

Note:

Under lines new language

Strikethroughs deletions

Commissioner Townsend asked if this amendment is dealing with the one residence. Bill Wiley answered that no, it is for any property with that zoning. Commission Townsend asked if the people were notified of the change. Mr. Wiley answered no, the City is only adding to the code and not taking away.

This was the end of the discussion and the voting then took place.

Commissioner Donald Lukich made a motion to APPROVE case # AMDT-13-140 – AMENDING CHAPTER 25 – LAND DEVELOPMENT CODE – AGRICULTURAL USES. Commissioner Frazier J. Marshall SECONDED the motion which, PASSED by a unanimous voice vote of 7 to 0.

- B. **Amending Section 25-290 Temporary Uses** to clarify permissible temporary event and outdoor sales promotions.

Bill Wiley highlighted the following in the Ordinance to expedite.

- (4) *Other temporary uses.* That are not of a seasonal nature shall ~~not~~ be permitted:
 - a. The following uses are identified as temporary uses:
 1. Outdoor product sales promotion for existing City of Leesburg operating businesses for their in store products (only on property of the business) with registration on the cities web site www.leesburgflorida.gov.
 2. Outdoor product sales promotion for products which are not offered by current City of Leesburg operating businesses as their primary product sales. Business must obtain a Business Tax Receipt and may operate on vacant property or at a public mall such as the Lake Square Mall, schools, college campus, churches, hospital such as the Leesburg Regional Medical Center, and in the Central Business District.
- (5) *Temporary use requirements are as follows:*
 - a. Use shall not be permitted for more than sixty (60) days within any one (1) calendar year except for construction trailers that are allowed until a project is completed.
 - b. Use shall not obstruct a right-of-way, sidewalk, or more than twenty (20) percent of required vehicular parking area.
- (6) *Mobile food vendors are permitted as follows:*
 - a. Shall be allowed on developed or vacant property.
 - b. As part of a product sales promotion where the food is given away free
 - c. As an approved charitable event with a 501(c)(3) designation.
 - d. Shall not be permitted for more than ninety (90) days for the same product within any one (1) calendar year and located on commercial or industrial property either vacant or developed property. Vacant property must be adjacent to developed property where use of restrooms, water and electric are approved by the adjacent developed property.

Note:

Under lines new language

~~Strikethroughs deletions~~

Commissioner Lukich asked about the vendors that come in for Special Events like Bikefest or Mardi Gras. Mr. Wiley answered that Special Event are exempt from this.

Bill Wiley explained that when an existing City business wants to have a special outside sale, they only have to register on the website as a temporary sale. There is no cost. The City is hoping to make this process more streamlined.

Allen Kelly, who owns property south of Leesburg, has a client that wants to use it for a car lot. He was operating for 2-3 years, but because of the economy the guy went bankrupt. He now has a client that wants to sign a one-year lease and sell cars. He heard of other dealers in the area that didn't think it was fair for this guy to come in on an on-going basis and sell cars. Mr. Kelly said, we have a free society and should be able to sell what we want to at any time based on a year's contract.

Chairman Argento asked how his situation pertains to the code changes.

Mr. Wiley stated that this particular property is located south on 27, and south of 48. He stated that staff did discuss the option to go through the process of making this property a permanent car sales. The position of City Commission with regard to this in the part is that it does not allow it. Local business were complaining about people were coming in that didn't have any overhead here. The Code was amended so this kind of activity is not permitted. This new code does not change that, it only clarifies.

Rick Teeds is with Excel Media and does promotional advertising for car dealers. The City of Leesburg wrote regulations so no dealer could come from out of town, but someone in town could go off-site. If someone in Clermont wants to come into Leesburg, then his taxes would go to Leesburg and Lake County,

which is beneficial.

Mr. Wiley asked if there is a current licenses operator/dealer in Leesburg, if they want to do promotion off of property, they can do that but it has to be their product. They can't use their license to allow someone else to sell cars that aren't theirs.

Mr. Teeds said that it was a Plaza Lincoln Mercury license.

Commissioner Lukich stated that Mr. Nolette could sell his product only. Or Key Scales could go and sell their product only.

Mr. Teeds asked about going to the mall. Commission Lukich stated that a local dealer can go anywhere in the City, that the City permits, to sell their product. Ocala and Clermont could not come into the City limits and utilize the property. Mr. Wiley clarified that if a local dealer wanted to do an off-site sale, they will be able to do so for their inventory.

Mr. Teeds asked if this new amendment would restrict the Publix site next to the mall. Commissioner Lukich reiterated that it would need to be a local dealer with his inventory.

Dan Miller stated how the City was told that this particular sale was going to be for Lincoln Mercury, but it was not a Lincoln Mercury sale, and it was not a Leesburg dealer.

Mr. Wiley stated that, in the future, the City may ask them for a list of their inventory.

Matthew Harrison, with Giant Recreation World, stated that over the years, they have done several off-site sales at Lake Square Mall. One of their competitors has booked up this area for months in advance. He tried to get a permit at Publix to hold an off-lot sale, as his store's territory is in Lake County, but this ordinance will now restrict him from going into any vacant lot that is highly visible from 441. When he has these events, they do heavy advertising and bring revenue to Leesburg. Lake Square is a struggling mall, and he tried to book 2 years from now, but there is a monopoly from La Mesa.

Chairman Argento asked how this code change affects Giant Rec World? Mr. Harrison said that he is based out of Winter Garden. Mr. Wiley answered that the code hasn't changed as it affects him. There were permits issued in error over the last year. The intent of the code was not for a business to come into Leesburg where there is a current business providing that product. The intent is to keep them from doing that. The concern is that the site be large enough to accommodate (ex. Palm Plaza, Wal-Mart, and Target).

Mr. Harrison stated that he was denied a permit for the Publix next to the mall. Mr. Wiley said that the Code hasn't provided for that for some time. It was allowed inadvertently a couple of times, and the City is now trying to regulate it. Mr. Harrison said that it's the same as Lake Square Mall, it's just a different shopping center. Commissioner Townsend agreed with Mr. Harrison.

Attorney Morrison asked if this amendment allows exactly what he's asking for. Mr. Wiley answered that they could add the words "Large Shopping Centers" to the amendment. Mr. Harrison said that he had a contract with Publix, but he was denied a permit from the City. Mr. Wiley said that was because that is the way the code currently is. If they come in, with the addition of "Large Shopping Centers", and the City feels like it is taking up too many of the parking spaces, it will be declined.

Louie Nolette wanted to thank the committee for clarifying. He stated he is bringing his own product to sell from his own inventory.

Bill Wiley stated that the amendment would be as follows:

Outdoor product sales promotion for products which are not offered by current City of Leesburg operating

businesses as their primary product sales. Business must obtain a Business Tax Receipt and may operate on vacant property or at a large public shopping center or a public mall such as the Lake Square Mall, schools, college campus, churches, hospital such as the Leesburg Regional Medical Center, and in the Central Business District.

This was the end of the discussion and the voting then took place.

Commissioner Donald Lukich made a motion to APPROVE case # AMDT-13-140 – AMENDING CHAPTER 25 – LAND DEVELOPMENT CODE – TEMPORARY USES. Commissioner Ted Bowersox SECONDED the motion which, PASSED by a unanimous voice vote of 7 to 0.

The Planning Commission decided to move the Helicopter Landing Amendment to the next agenda item.

- E. **Amending Chapter 25 by adding Section 25-292 (22) Location of Helicopter Landing Areas** to provide additional regulations for helicopter landing sites in PUD (Planned Unit Development) zoning districts with specific exceptions.

Bill Wiley explained that it came to the City's attention that there are only 2 places that allowed helicopter landing pads, neither one of them being residential. Staff realized that they hadn't addressed this issue well, and realized that they could have a development come into the city that is aviation oriented. It was decided to address the issue by allowing it in a residential area where there was a PUD.

Bill Wiley explain the following in the Ordinance.

Sec. 25-292. - (22) Location of Helicopter Landing Areas. The following regulations will apply to the location of any Helicopter Landing Site. Capitalized terms used in this subsection shall have the meanings ascribed to them in Chapter 4, Article III of this Code:

- a. No Helicopter Landing Site may be located in any zoning district within the City of Leesburg unless specifically permitted by a PUD (Planned Unit Development) District, except that helicopters may land and take off from the Leesburg International Airport and Approved Public Property in accordance with airport and Federal Aviation Administration regulations.
- b. No PUD or other approval may be issued for any Helicopter Landing Site until the applicant has furnished to the City a completed application seeking approval from the Federal Aviation Administration to locate a Helicopter Landing Site at the proposed location, with proof the application has been filed and all fees due for the application have been paid. Any permit or approval for a Helicopter Landing Site shall be contingent on receipt by the City of final approval by the Federal Aviation Administration for the Helicopter Landing Site, within 90 days after issuance of the permit or approval. If the application is not approved by the Federal Aviation Administration within that 90 day period, or is disapproved, the permit or approval shall be deemed revoked as a matter of law without the requirement of notice to the applicant by the City. No Helicopter Landing Site for which a permit or approval has been issued may be utilized for helicopter operations until the final Federal Aviation Administration approval has been granted.
- c. All applications for a Helicopter Landing Site shall contain or be accompanied by the following:
 1. Name and address of the applicant, and if the applicant is not a natural person, the name and address of a natural person who will be representing the applicant in the approval process and be responsible for the accuracy of all information submitted.

2. A certificate of insurance providing public liability and property damage coverage of at least \$2,000,000.00 combined single limit, with the City of Leesburg named as an additional insured party.
 3. A noise study from a firm licensed to conduct such studies, setting forth the effect the noise from helicopter operations at the proposed Helicopter Landing Site (including approach zones) will have on surrounding property owners, and concluding that the noise will not constitute a nuisance to or be deleterious to the owners and occupants of surrounding property. The study must be addressed to the City and authorize the City to rely on the study for its intended purpose of demonstrating no ill effects from the noise associated with the Helicopter Landing Site.
 4. Such other material as may be required by the City for evaluation of the application, in order to protect the public health and safety.
- d. Construction of a Helicopter Landing Site shall not be commenced, nor shall site preparation work be allowed, until both a Planned Unit Development District rezoning has been issued and final Federal Aviation Administration approval has been secured.

Note:

Under lines new language

Strikethroughs deletions

Bill Wiley said that it would be reviewed on a case by case basis as long as it didn't have a negative impact on the surrounding properties, and if could be done appropriately, staff would probably support it.

Commission Lukich asked if this came up at a City Commission Meeting about someone in Palmora Park. Mr. Wiley answered that there is an interest in a piece of property on Shore Acres Drive. We would need to have the ability to permit through a PUD. This amendment does not have to do with any particular site.

Commissioner Bowersox asked if the PUD would work for the site in questions. Mr. Wiley said that he didn't believe this property was big enough and that staff would probably not support a PUD for it. Attorney Morrison answered that the companion ordinance would make it virtually impossible. The FAA would have to approve any helicopter site.

John Dickerson, who lives next to the lot in question, stated that the City does not presently permit this use in a residential area. He doesn't understand why the owner is pursuing it. The entire site was totally littered with pieces of trees that were cut down without a permit. He did what he wanted to do. Mr. Dickerson wants to be sure that the City Ordinances will not allow a helipad to be constructed on any property on Shore Acres. Commissioner Bowersox stated that after the trees were removed, he was given the permit. Mr. Wiley said that he was taken to Code Enforcement in which the magistrate found he was in violation. The Code said that a restoration plan is required and that the owner was fined, which was approved by staff. Mr. Wiley said that we're not here to discuss site specific situations. There is currently a building permit that has been submitted in the office with a helicopter landing site and a helicopter garage on it. The permit has been denied until those two are removed.

Chairman Argento stated that we are the appellate board and will hear the appeal if the permit is denied.

Douglas Brooks, who lives across the street, wanted to clarify that if the current code prohibits the installation of a helipad, but there is a procedure for appealing it. Chairman Argento said that we are bound by law to overrule the City if it meets a certain set of criteria.

Commissioner Lukich asked if it was feasible to put in a certain amount of land area. Mr. Wiley answered that he would rather not put that in because it could be a different situation based on where the property is located. What staff will do, as is done to all applicants, is to meeting with them and give an initial indication as to whether or not staff will support the application.

This was the end of the discussion and the voting then took place.

Commissioner Ted Bowersox made a motion to APPROVE case # AMDT-13-140 – AMENDING CHAPTER 25 – LAND DEVELOPMENT CODE – HELICOPTER LANDING AREAS. Commissioner Don Lukich SECONDED the motion which, PASSED by a unanimous voice vote of 7 to 0.

- C. **Deleting Chapter 6 Section - 41 Keeping chickens or fowl, and amending Chapter 25 by revising Section 25-292 (4) The keeping of domestic animals and fowl** to revise the requirements regarding domestic animals and fowl in residential zoning districts, and providing regulations for other domestic animals.

Bill Wiley explained that the revisions to this section came up because an individual on 6th Street had chickens in his backyard. He was cited by Code Enforcement for a violation. When a closer examination of what he was cited for was done, it was realized that there were conflicting sections in the code. Staff has been in touch with this resident, and he is satisfied he'll be able to comply.

Bill Wiley highlighted the following in the Ordinance to expedite.

CHAPTER 6 ARTICLE II. - GENERAL ANIMAL REGULATIONS

~~Sec. 6-41. - Keeping chickens or fowl.~~

~~It shall be unlawful for any person to keep, harbor, coop, pen, house, or maintain more than fifty (50) fowl on any premises within the city within five hundred (500) feet of any dwelling house where food for human beings is kept, prepared or served. It shall also be unlawful to keep any chickens or fowl within fifty (50) feet of any other dwelling house in the city. Violation of this section will be a Group I infraction as described in Article I.~~

~~(4) *The keeping of domestic animals and fowl* shall be limited as following:~~

- ~~a. In all zoning districts, except for provisions provided in the RE-1 Residential Estate zoning district below, domestic animals or fowl being kept, harbored, raised, or maintained as accessory to a residential single-family structure, shall be subject to the following restrictions:~~
 - ~~1. No more than five (5) chickens may be kept, with roosters prohibited;~~
 - ~~2. Slaughtering of chickens is prohibited;~~
 - ~~3. The chickens shall be provided with a movable covered enclosure (See Exhibit Hen house/coop) and must be kept in the covered enclosure or a fenced enclosure at all times. Chickens must be secured within the movable henhouse/coop during non-daylight hours;~~
 - ~~4. The space per bird in the henhouse/coop shall not be less than four (4) square feet per bird and not larger than fifty (50) square feet;~~
 - ~~5. No covered enclosure or fenced enclosure shall be located in the front or side yard, nor shall the henhouse/coop be closer than twenty (20) feet to any property line of an adjacent developed property, nor within fifty (50) feet of any adjacent occupied residential structure. Odors from chickens, chicken manure, or other chicken related substances shall not be detectable at the property boundaries;~~

6. Chicken coops and pens shall be completely screened from adjacent roadways and parcels by a six (6) foot tall solid fence, wall, or equivalent landscape vegetative material as approved by the City Community Development Department.
7. All enclosures for the keeping of chickens shall be so constructed and maintained as to prevent rodents or other pests from being harbored underneath, within, or within the walls of the enclosure. The henhouse/coop must be impermeable to rodents, wild birds, and predators, including dogs and cats. Enclosures shall be kept in neat condition, including provision of clean, dry bedding materials and regular removal of waste materials. All manure for composting must be kept in an enclosed bin. All other manure shall be removed promptly;
8. All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rodents or other pests shall be kept in secure containers or otherwise protected so as to prevent rodents and other pests from gaining access to or coming into contact with them;
9. The sale of eggs or any other chicken products generated within a residential district in the City of Leesburg is prohibited;
10. No dog or cat that kills a chicken will, for that reason alone, be considered a dangerous or aggressive animal.
11. Rabbits as pets shall be within a completely enclosed dwelling or detached garage or in an outside enclosure, coop or pen, up to a maximum of two (2) rabbits.
12. Adult dogs, cat, birds etc. shall be limited in all districts to a maximum of five (5) adults per dwelling with adequate fencing and/or outside covered protection from the elements.
13. For the keeping of chickens completion of the following two hour course "Chicken University" is highly recommended. The course is offered by the UF/IFAS Lake County Extension Office, 1951 Woodlea Rd., Tavares, FL 32778, phone (352) 343-4101 ext. 6.

Note:

Under lines new language

~~Strikethroughs deletions~~

Commissioner Townsend asked if the lots are 100 feet wide, then they wouldn't be able to have any chickens. Attorney Morrison answered that there will be lots that won't meet criteria. Commission Bowersox asked if it was from the dwelling unit instead of the property line. Commissioner Townsend said that he understood, but there are also a lot of places that need these chickens and use the eggs to sell.

Mr. Wiley stated that it was an option if the Planning Commission wanted to amend the 50 foot setback. Staff is concerned that there will be issues if we have a lot of chickens on small lots. Commissioner Townsend asked if we are having a problem with it at this time. Mr. Wiley answered no because we don't presently allow it. Mr. Wiley stated that recently in the news it was stated that having chickens will depreciate the value of a house if you live next door and decide to sell.

Attorney Morrison stated that one of the concerns he would have with eliminating the 50 foot setback, is if the person sticks the chicken coop all the way in the back of the yard and have it be 50 feet from his house, but 20 feet from his neighbor's house. Having 50 feet from any occupied residential lot also protects the neighbor.

Commission Marshall stated that there are people with disabilities that need certain animals that calm them down. Chairman Argento asked if someone was in that situation, would they come before Planning Commission with a Variance request. Attorney Morrison answered that if the code prohibits it, you can't bring a Use Variance. Under that situation, they may be able to obtain a special permission under the ADA. For example, if you have an apartment complex that prohibits dogs and someone come in with a Seeing Eye

dog, they have a medical condition that would allow them to have one.

Mr. Wiley said that one condition is for it to be 20 feet from the property line. Chairman Bowersox said that they could then put it at their back door. Commissioner Lukich agrees with the 50 foot setback and thinks that is reasonable.

Dan Miller stated that he spoke with Jeff Hartzel, who brought this to staff's attention, this afternoon and he is in support of this ordinance.

Commissioner Townsend stated that he has a problem with the ordinance going from 10-12 lines to a page and a half. Mr. Wiley stated that we don't permit chickens on less than an acre. The ordinance will be protection for the adjacent areas.

This was the end of the discussion and the voting then took place.

Commissioner Ted Bowersox made a motion to APPROVE case # AMDT-13-140 – AMENDING CHAPTERS 6 AND 25 – LAND DEVELOPMENT CODE – KEEPING CHICKENS OR FOWL. Commissioner Agnes Berry SECONDED the motion which, PASSED by a voice vote of 5 to 0, with Charles Townsend and Don Lukich voting against.

- D. **Amending Chapter 25 by revising Section 25-292 (21) Indoor recreation** to provide regulations for “Adult Gaming Centers” (previously Adult internet/sweepstakes redemption cafés) to require zoning approvals, background checks, limits on the number of electronic gaming devices, and providing for definitions.

Bill Wiley explained that the Internet Sweepstake Cafes are heavily regulated. The state changed the statute to prohibit them in the state. Because it was a lucrative money making opportunity for vending companies, they changed their software so instead of being games of chance, they are games of skill. So they started to open back up all over the state. Mr. Wiley approached the City Commission and asked them to impose a moratorium, which they did adopt.

Bill Wiley stated that this is an amendment to the existing section. He highlighted the following in the Ordinance to expedite.

- (21) Indoor recreation- “Adult Gaming Center” as used in this ordinance shall mean a structure, building, edifice, facility or location, along with its grounds in which Electronic Gaming Devices are used, operated or stored in conjunction with the use of such Electronic Gaming Devices. The following regulations shall apply to all Adult internet/sweepstakes redemption cafés Gaming Centers
- a. Only adults eighteen (18) years of age or older shall be permitted within buildings where this use is permitted.
 - b. ~~Internet/sweepstakes redemption café~~ Adult Gaming Centers uses shall only be allowed by Conditional Use Permit in the M-1 Industrial zoning district, and in the SPUD and PUD districts. Every application seeking approval shall include for every principal, officer, shareholder, and director of the owner of the proposed Adult Gaming Center, a fingerprint card and letter certifying the results of a criminal background check generated by the Florida Department of Law Enforcement or the City of Leesburg police department.
 - g. No food shall be prepared on site, nor shall any food be catered, ordered in or otherwise brought to the site, however, on site vending machines and prepackaged snacks offered on site for sale or consumption shall be permitted.
 - m. ~~Internet/sweepstakes redemption cafés~~ Approval to operate an Adult Gaming Centers are ~~must be~~ granted to the applicant with a majority ownership interest in the business ~~person or operation entity operating the Adult Gaming Center,~~ and may not be transferred to another

entity. However, existing approved internet/sweepstakes redemption cafés operating prior to May 9, 2011 may be transferred no more than one time, to another entity, upon written notification and evidence of the conveyance to the City of Leesburg Community Development Department.

- n. Permittee shall not operate more than ~~fifty (50)~~ ten (10) Electronic Gaming Devices, ~~except that Permittee operating a drawing by chance offered in connection with the sale of a consumer product or service, sweepstakes or other game promotion using electronic equipment on or before January 1, 2012 in the City of Leesburg may not operate more pieces of electronic equipment than were in operation on October 31, 2011, and any reduction following the enactment of this chapter in electronic equipment pieces by such Permittee shall become permanent.~~ Replacing an existing ~~piece of electronic equipment~~ Electronic Gaming Device due to a defect or upgrade shall not be deemed a reduction pursuant to this section, provided that such replacement occurs within thirty (30) days of written notice to the City of Leesburg Community Development Department that an Electronic Gaming Device requires upgrade or replacement.

Chairman Argento asked under City law if they will have to apply for a Conditional Use Permit. Attorney Morrison answered yes.

Commissioner Marshall asked if the American Legion is going to be stopped until they come into compliance. Mr. Wiley answered that typically in these types of situations, we try to let people continue doing what they're doing while we're going through the process of changing the code. Attorney Morrison stated that they would not be grandfathered in because they didn't have a permit.

Mr. Wiley explained that the reason why they changed the number of machines from 50 to 10 is because the City Commission decided that this was not the type of activity that they want to promote in Leesburg. They don't want these machines to be a primary use in their business.

Bill Pfeiffer, an attorney in Tallahassee, is working on this pro-bono on behalf of the American Legion. He stated that he has been dealing with this for about 6 years. The American Legion provides hundreds of meals each month to the local community. There are also over 5,000 hours of volunteer service. Without the source of revenue/income they will close their doors within 30 days. Mr. Pfeiffer stated that there are multiple levels, under Chapter 849, of difference types of gaming. There is lottery, raffles, adult arcades, bingo, etc... He believes that this ordinance is targeted toward the internet cafes. Statute # 849094 is what sweepstakes operate under. Sweepstakes are games of chance that are used to promote the sale of a product or service. In May, the legislature said no more internet cafes. The American Legion runs skill based games. This is an adult arcade under a completely different section (# 849161) than internet cafes. The most you can win is \$0.75 per game, which is not in cash. American Legion has been operating these skill based games for over a year.

Kim Flanders, represented the American Legion as Commander of Post 352. This American Legion has been there since 1957. She has been at the American Legion for 9 years. They take Veterans off the street and help them get back on their feet again. They have Veterans aged 25-80 years old coming to the American Legion. If these skill-based games are taken away, they will close. They have no other source of revenue. Bikefest only pays about 60% of their insurance each year. She is asking the Planning Commission to try to find a way to consider true Veterans.

(Agnes Berry left at 6:09pm.)

Chairman Argento asked how this code affects groups like the American Legion. Mr. Wiley answered that it was not the intention of the staff to cause a problem for the American Legion. He said that if there is a way to achieve the goal that the city wants, without opening up the doors to the other places, which are also non-profit, then he is open to letting the attorney's look at it.

Commission Townsend asked if this code was a broad brush, and if what they're operating under is the same

as the other Internet Cafes that the code is trying to address. Mr. Pfeiffer said that the language that is in Chapter 25, Section 292 of our code, is supplemental requirement for indoor recreation. He said that the problem is, is that it also seems to include arcades. Mr. Pfeiffer gave the example that if Chucky Cheese wanted to come into the City, they would not be able to open their door under this Code, because they would be required under Section H to comply with Florida Statute # 849094. Mr. Pfeiffer said that the American Legion is not selling a product, that they are an adult arcade and have to live with Statute # 849161, which is the Adult Arcade Statute now in the state of Florida, the skill game statute. Mr. Pfeiffer said that it is his opinion that the City's new proposed code homogenizes both the skill games and the sweepstakes.

Commissioner Bowersox said that if we allow this for the American Legion, in what way do we protect the City. Mr. Pfeiffer said that you have to have a truly legitimate article recognized by the federal government as long-standing not-for-profit organization. Commissioner Bowersox said that the City Commission doesn't want to have 15-20 of these in our community, but we also don't want to leave the barn door open either. Commission Lukich asked why this non-profit would be any different than churches who host Bingo games. Commissioner Bowersox said that 'non-profit' is a broad brush. Attorney Morrison answered that the Internet Cafes we ultimately outlawed because the uses were allegedly non-profit also, so that's not necessarily a solution. Mr. Wiley said that they were also under the guise of Veteran's organizations.

Mr. Pfeiffer said that he believes the amendment should read, "This section does not apply to the amusement arcades operating pursuant to Statute # 849161."

Commission Marshall asked if this amendment would stop 'Gaming Busters' from coming in. Attorney Morrison answered that it would.

Mr. Wiley said that there has not been specific language offered. Mr. Wiley said, because of that, it doesn't seem like it would be easy to do. Mr. Pfeiffer said that the single sentence, "This does not apply to amusement arcades operating under 849161" solves the problem. This is the skill-game section of the statute.

Commissioner Bowersox asked how much is put in the machines to get \$0.75. Mr. Pfeiffer answered \$0.01, \$0.02, or \$0.25, it depends on the game. These games usually bring in \$2500.00 a week in revenue. \$10,000 a month that they rely on to keep their doors open. All of the staff is free, they are all volunteers. He said that the American Legion is trying to help the community, and that it is not a get rich scheme.

Mr. Wiley said that staff would not have a problem continuing this case. This would give Mr. Pfeiffer the opportunity to send staff the language from other communities, so the American Legion could continue to operate and give the City Attorney the chance to look at it as well. Attorney Morrison stated that he just looked at the statute on his iPad. He would like to look at what these other businesses are doing and what their justification is and how they operate. Attorney Morrison said that in principle, he doesn't have an objection to exempting if it doesn't open the door to everybody else. What he doesn't want to do is pass a meaningless ordinance.

This was the end of the discussion and the voting then took place.

Commissioner Donald Lukich made a motion to TABLE case # AMDT-13-140 – AMENDING CHAPTER 25 – LAND DEVELOPMENT CODE – ADULT GAMING CENTERS . Commissioner Ted Bowersox SECONDED the motion which, PASSED by a unanimous voice vote of 6 to 0.

DISCUSSION ITEM

ELECTION OF OFFICERS

Commissioner Ted Bowersox moved to keep the officers the same with James Argento as Chairman of the Planning Commission and Clell Coleman as Vice-Chairman. Commissioner Donald Lukich SECONDED the motion, which PASSED by a unanimous vote of 6 to 0.

ANNOUNCEMENTS

The next scheduled meeting date is February 20, 2014.

The meeting adjourned at 6:26 p.m.

James Argento, Chairperson

Clell Coleman, Vice Chairperson

Dianne Pacewicz, Administrative Assistant II